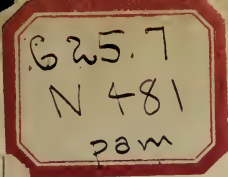


Government

(Chap 115. Saws 1898, and
to March 1, 1909)



IMPROVEMENT OF HIGHWAYS, STATE OF NEW YORK.

Chap. 115, Laws of 1898.

As amended to March 1, 1903.

AN ACT to provide for the improvement of the public highways.

Became a law March 24, 1898, with the approval of the Governor.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. The board of supervisors in any county of the State may, and upon presentation of a petition as provided in section two hereof, must pass a resolution that public interest demands the improvement of any public highway, or section thereof situated within such county, and described in such resolution, but such description shall not include any portion of a highway within the boundaries of any city or incorporated village, and within ten days after the passage of such a resolution shall transmit a certified copy thereof to the State Engineer and Surveyor.

Resolution
of needed
improve-
ments.

§ 2. The owners of a majority of the lineal feet fronting on any such public highway or section thereof in any county of the State may present to the board of supervisors of such county a petition setting forth that the petitioners are such owners and that they desire that such highway or section thereof be improved under the provisions of this act.

Petition of
land
owners.

§ 3. Such State Engineer upon receipt of such resolution shall investigate and determine whether the highway or section thereof sought to be improved is of sufficient public importance to come within the purposes of this act, taking into account the use, location and value of such highway or section thereof for the purposes of common traffic and travel, and after such investigation shall certify his approval or disapproval of such resolution. If he shall disapprove such resolution, he shall certify his reasons thereof to such board of supervisors.

Investiga-
tion and
approval
by State
Engineer.

§ 4. If he shall approve such resolution, such State Engineer shall cause the highway or section thereof therein described to be mapped both in outline and profile. He shall indicate how much of such highway or section thereof may be improved by deviation from the existing lines whenever it shall be deemed of advantage to obtain a shorter or more direct road without lessening its usefulness or wherever such deviation is of advantage

Maps.

Plans and specifications.

by reason of lessened gradients. He shall also cause plans and specifications of such highways or section thereof to be thus improved to be made for telford, macadam or gravel roadway or other suitable construction, taking into consideration climate, soil and materials to be had in the vicinity thereof and the extent and nature of the traffic likely to be upon such highway, specifying in his judgment the kind of road a wise economy demands. The improved or permanent roadway of all highways so improved shall not be less than eight feet nor more than sixteen feet in width unless for special reasons to be stated by such State Engineer it is required that it shall be of greater width. He shall if requested by the resolution include provision for steel plate or other flat rail construction in double track.

Width of roads, etc.

Estimate of cost.

§ 5. Upon the completion of such maps, plans and specifications such State Engineer shall cause an estimate to be made of the cost of construction of the same, and transmit the same to the board of supervisors from which such resolution proceeded, together with a certified copy of such maps, plans and specifications, and of his certificate of the approval of the highway or section thereof so designated as aforesaid.

Resolution by supervisors to construct.

§ 6. After the receipt thereof upon a majority vote of such board of supervisors, it may adopt a resolution that such highway or section thereof so approved shall be constructed under the provisions of this act, or of any existing act, and thereupon shall transmit a certified copy of such resolution to such State Engineer.

Acquisition of right of way.

§ 7. In case the boundaries of such proposed highway shall deviate from the existing highway, the board of supervisors must make provision for securing the requisite right of way prior to the actual commencement of the work of improvement.

Advertisement for bids.

§ 8. Upon receipt of the certified copy of the resolution provided in section six, such State Engineer shall advertise for bids for two successive weeks in a newspaper published at the county seat of such county, and in such other newspaper as shall be deemed of advantage for the construction of such highway or section thereof, according to such plans and specifications, and award such contract to the lowest responsible bidder, except that he may in his discretion award the contract to the board of supervisors of the county or the town board or boards of the town or towns in which such highway lies, and except that no contract shall be awarded at a greater sum than the estimate provided in section five. But if no bid otherwise acceptable be made within such estimate, such State Engineer may amend his estimate, certify the same to the board of supervisors, and upon the adoption by it of a resolution as provided in section six based on such amended estimate, proceed anew to obtain bids and award the contract as herein provided. Such engineer may reject any or all bids, and before entering into any contract for such construction, he shall require a bond with sufficient sureties, conditioned that if the proposal shall be accepted the party thereto will perform the work upon the terms proposed and within the time prescribed and in accordance with the plans and specifications; and as a bond of indemnity against any direct or indirect damages that shall be

Award of contract.

Amendment of estimate.

Rejection of bids.

Contractor's bond.

suffered or claimed during the construction of such road and until the same is accepted. The people of the State of New York shall in no case be liable for any damages suffered. Partial payments may be provided for in the contract, and paid in the manner herein provided when certified to by such State Engineer to an amount not to exceed ninety per centum of the value of the work done; ten per centum of the contract price shall be retained until the entire work has been accepted. Whenever a county engineer has been appointed in the county in which such highway or section thereof is to be constructed, he shall have general charge and supervision of the work under the direction of such State Engineer and shall report to him from time to time the progress of the work and such facts in relation thereto as may be required. If there is no county engineer, such State Engineer shall have some competent person to superintend and have engineering supervision of the work. (As amended by Chap. 4, Laws 1903.)

State not
liable.

90 per cent.
monthly pay-
ments on
contracts.

County
engineers.

(§ 2.) This act shall not apply to any contracts now in force for the construction of roads under the provisions of this act entitled "An act to provide for the improvement of public highways," unless the contractor or contractors with the people of the State of New York for such construction work, shall file with the State Engineer a request for the application of said section eight as here amended to such contract or contracts, and a written acceptance of the surety or sureties upon the bond of such contractor or contractors, of such amendment to said section eight. (Of Chap. 4, Laws 1903.)

§ 9. One-half of the expense of the construction thereof shall be paid by the State Treasurer upon the warrant of the Comptroller, issued upon the requisition of such engineer, out of any specific appropriations made to carry out the provisions of this act. And one-half of the expense thereof shall be a county charge in the first instance, and the same shall be paid by the county treasurer of the county in which such highway or section thereof is, upon the requisition of such engineer, but the amount so paid shall be apportioned by the board of supervisors, so that if the same has been built upon a resolution of said board without petition, thirty-five per centum of the cost of construction shall be a general county charge; and fifteen per centum shall be a charge upon the town in which the improved highway or section thereof is located, and if the same has been built upon a resolution of said board after petition as provided in section two, thirty-five per centum shall be a general county charge and fifteen per centum shall be assessed upon and paid by the owners of the lands benefited in the proportion of the benefits accruing to said owners as determined by the town assessors in the next section hereof.

Expense of
construction.

Proportion
borne by
State, county
or town.

§ 10. The town assessors of any town in which any highway or section thereof has been improved or constructed pursuant to petition as provided in section two of this act, shall have power and it shall be their duty upon receiving notice from the board of supervisors of the county in which said town is located, of the cost of construction or improvement of such highway or section thereof in such town, to assess an amount equal to fifteen per centum of said total cost upon the lands fronting or abutting on such

Duty of
assessors.

highway or section thereof. Such assessment shall be apportioned according to the benefits accruing to the owners of the lands so located, according to the best judgment of said assessors, upon at least ten days' notice of the time and place of such apportionment to the persons affected thereby, and after such persons have had an opportunity to be heard, and the assessments so made when duly attested by the oaths of such assessors shall be collected in the same manner as the general taxes of such town are collected. (As amended by Chap. 92, Laws 1899.)

Order of
construction.

§ 11. The construction and improvement of highways and sections thereof, under the provisions of this act, shall be taken up and carried forward in the order in which they are finally designated, as determined by the date of the receipt in each case of the certified copy of the resolution provided in section six by such engineer as hereinbefore provided.

Acceptance
upon com-
pletion.

§ 12. Upon the completion of such highways, or sections thereof, so constructed by such engineer, and his acceptance of the same, and after payment has been made as herein provided, such engineer shall inform the board of supervisors of such county that the highways or sections thereof designated have been constructed as herein provided; and he may serve notice on said board to accept such highway thus constructed, which notice shall be filed in the office of the clerk of said county; and twenty days after the service and filing of said notice, such highway or section thereof shall be deemed accepted by said board of supervisors of such county; and thereafter they shall maintain the same as a county road, and may apportion the expense thereof upon the town or towns which such board deems benefited thereby; and the commissioners of highways of the town or towns, respectively, wherein such improved highways lie shall care for and keep the same in repair, under the direction and supervision of the state engineer and surveyor and such rules and regulations as he may prescribe. If any board of supervisors or any commissioner of highways shall fail or neglect to properly perform such duties within such time as may be prescribed by such engineer for the performance thereof, such engineer may cause the same to be performed and the expense thereof to be paid by the State Treasurer out of any funds in his possession not otherwise appropriated, upon whom such engineer shall make draft therefor, and the amount thereof shall be charged by the Comptroller against the county in which such improved highways shall be located, and be included by the board of supervisors of such county in its next annual tax levy as a county charge, unless the same be apportioned as above provided, in which case it shall be included in the tax so levied upon the town or towns to which it shall be apportioned. (As amended by Chap. 53, Laws 1902.)

Maintained
under super-
vision of
State Engi-
neer.

Highway
taxes.

§ 13. All persons owning property abutting on such road so improved, or residing thereon, shall thereafter pay all highway taxes assessed against them in money, in the manner now provided by law.

Connecting
highways or
sections.

§ 14. Whenever any county has had aid in building any such highway, and it seems advantageous to such State Engineer that a section or sections of highway, not exceeding one mile in length, should be constructed under

this act to connect these roads together, and would be of great public utility and general convenience, he may serve notice on the board of supervisors of such county, and shall file one in the county clerk's office, designating the highways already constructed and the existing termini, and the section or sections, in his opinion, necessary to be constructed and his reasons therefor. And it shall be the duty of the board of supervisors to provide for the construction of such connecting highway or section thereof, within one year after the service and filing of such notice under this act.

§ 15. In addition to his other powers and duties, the State Engineer and Surveyor shall compile statistics relative to the public highways throughout the State and shall collect all information in regard thereto deemed expedient. He shall investigate and determine upon various methods of road construction adapted to different sections of the State, and as to the best methods of construction and maintenance of roads and bridges, and such other information relating thereto as he shall deem appropriate. He may be consulted at all reasonable times by county, city, town or village officers having care and authority over highways and bridges, and shall advise such officers relative to the construction, repair, alteration or maintenance of the same; and shall furnish such other information and advice as may be requested by persons interested in the construction and maintenance of public highways, and shall at all times, lend his aid in promoting highway improvement throughout the state. He shall hold in each year at least one public meeting in each county, and shall cause due notice of such meeting to be given. He shall co-operate with all highway officers and shall assist county and town authorities, and when requested by them, furnish them with plans and directions for the improvement of the public highways and bridges.

Powers and duties of State Engineer.

§ 16. He shall report annually to the Legislature concerning all the work performed by him, together with such recommendations upon the subject of highway construction and maintenance as to him shall seem appropriate.

Annual report.

§ 17. The commissioners of highways and town board of any town, and the board of supervisors of any county, and all other officers who now have or may hereafter have by law the care and supervision of the public highways and bridges shall, from time to time, upon his written request, furnish him with all available information in connection with the building and maintenance of the public highways and bridges in their respective localities.

Information to be furnished State Engineer.

§ 18. The operation of this act shall not be affected by any special act, but the highways may be improved under this act or such special act wherever the same may now exist.

Acts not affected.

§ 19. No street surface railroad shall be constructed upon a portion of a highway, which portion has been or may be hereafter improved under the provisions of this act and the acts amendatory thereof and supplemental thereto, except upon the consent of, and under such conditions and regulations as may be prescribed by the State Engineer and Surveyor. (Added by Chap. 379, Laws 1902.)

§ 20. This act shall take effect immediately. (Renumbered § 20 by Chap. 379, Laws 1902.)

MONEY SYSTEM OF TAXATION FOR REPAIR OF HIGHWAYS, STATE OF NEW YORK.

(Known as the Fuller Law.)

Sections 49, 50, 51, 52 and 53 of Highway Law.

As amended to March 1, 1903.

Change of
system.

§ 49. *System of taxation defined.*—The system of taxation for working and repairing highways, as hereinbefore provided, shall be known as “The Labor System of Taxation,” and the system hereinafter provided, shall be known as “The Money System of Taxation.”

Qualified
voters.

§ 50. *Town may change its system.*—Any town may change its system of taxation for working and repairing its highways, by complying with the following provisions relating thereto.

§ 51. *Vote thereon.*—Upon the written request of twenty-five taxpayers of any town, the electors thereof may, at a special or biennial town meeting vote by ballot upon the question of changing the system of taxation for working the highway; but no person residing in an incorporated village or city, exempted from the jurisdiction of commissioners of highways of the town, shall sign such request, or vote upon such question.

When change
to take effect.

§ 52. *When change to take effect.*—When a town shall have voted to change the system of taxation for working and repairing the highways, as herein provided, such change, except in so far as it affects the duties of the town assessors in indicating and placing on the assessment roll the property and persons subject to assessment and taxation for the repair of highways and of the highway commissioners and town board in determining and certifying the amount of such tax, shall not take effect until the next annual meeting of the board of supervisors, after the town meeting at which it was decided to make the change; and until such annual meeting of the board of supervisors the former system of repairing highways and of taxation therefor shall remain in force in said town; provided, however, that when such change shall have been voted at a town meeting held subsequent to the first day of July in any year, it shall not take effect, except as to the duties required to be performed by the town officers specified herein, until the second annual meeting of the board of supervisors next succeeding such town meeting. In each town of Westchester county such change shall be for a term of not less than five years.

Exception.

§ 53. *Annual tax under money system; certain villages exempt therefrom.*—Any town voting in favor of the money system, shall annually raise by tax, to be levied and collected the same as other town taxes, for the repair of the highways, an annual sum of money, which shall be equal to at least one-half of the value at the commutation rates, of the highway labor which should be assessable under the labor system; but in

Sum to be
raised
annually.

any town in which there may be an incorporated village, which forms a separate road district, and wherein the roads and streets are maintained at the expense of such village, all property within such village shall be exempt from the levy and collection of such tax for the repairs of highways of such town; and the assessors of such town are hereby required to indicate on the assessment roll the property included in such incorporated village, in a column separate from that containing a list of the property in the town not included in such village, and shall also place on the assessment roll the names of all persons liable to poll tax who are not residents of such village, and the board of supervisors are directed to levy a tax of one dollar on each person liable to poll tax as thus indicated; but this act shall not apply to assessments made for damages and charges for laying out or altering any road, or for erecting or repairing any bridge in such town. The amount of such tax shall be determined by the commissioners of highway and the town board, who shall certify the same to the board of supervisors the same as any other town charge. The clerk of the board of supervisors of each county containing a town which has voted for the money system shall, on or before the first day of January of each year transmit to the State Comptroller a statement certified by him, and signed and verified by the chairman of such board, stating the name of each town so voting, and the amount of money tax levied therein for the repair of highways during the preceding year. The Comptroller shall draw his warrant upon the State Treasurer in favor of the treasurer of the county in which such town is situated, for an amount equal to fifty per centum of the amount so levied in each town. The county treasurer shall pay out the amount so paid to him on account of the money tax levied in any such town upon the order of the highway commissioner thereof, to be used by him, for the repair and permanent improvement of such highways therein, and in such manner as the commissioner of highways and town board may determine. The sum paid by the state to any town by virtue of this section shall not exceed, in any one year, one-tenth of one per centum of the taxable property of such town.

Exemption.

New roads and bridges not included.

Statement to State Comptroller.

50 per cent. to be paid to town.

Limitation.



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